$Af/2186,$
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:		§	
	Michael K. Eschmann	§	Art Unit: 2186
		§	
Serial No.:	10/751,018	§	Examiner: Paul W. Schlie
		§	
Filed:	December 31, 2003	§	Atty Docket: ITL.1083US
		§	P18347
For:	Ordering Disk Cache Requests	§	
		§	Assignee: Intel Corporation
		§	

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

This reply brief responds to the new points raised by the Examiner in the Examiner's Answer.

The Examiner's Answer relies on Figure 3, items 318 and 324 of Herbst. In Figure 3, at diamond 318, a check determines whether a disk write is in progress. If so, that write is handled first. This is directly contrary to Figure 3 in the present application. In the present application, if a new demand request occurs during write back execution, the write back request is preempted, as indicated in block 60. Thus, the cited reference directly teaches away. This point seems to be made in the third full paragraph of the Examiner's Answer on page 3, under the heading Claim Rejections. Nonetheless, for some reason, the Examiner draws the opposite conclusion. The Examiner suggests that a previously initiated write back operation may be preempted at the language bridging page 3 and 4 of the Answer, but this is not what the flow chart, relied upon by

the Examiner, suggests. It suggests deferring the demand request, namely, the read command identified in diamond 314, for a disk write in progress in response to the operation at diamond 318 and 324 in Figure 3 of the cited reference.

What is unexplained in the Answer is how a reference which teaches exactly the opposite of what is claimed, could inherently teach what is claimed. The suggestion that doing what is claimed is obvious in view of what the reference teaches is baseless. The reference teaches away from what is claimed and, therefore, nothing in the reference teaches what is precisely the opposite of what the reference teaches. In other words, the Examiner is citing the reference to suggest that it is obvious to do exactly the opposite of what the reference teaches. Certainly, this is not sustainable.
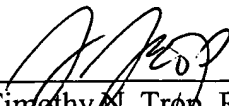
The discussion of the Eschmann reference is improper since no reliance on the Eschmann reference has been made.

Clearly, the rejection, to the extent it is based on Section 103, makes no effort to show a rationale to modify the reference to do the opposite of what the reference teaches. Thus, in short, the reference teaches the situation where a read command is received and the Examiner contends that a read command is a demand request. However, the read command is plainly deferred pending a disk write, as shown in relied upon block 324.

Therefore, the rejection should be reversed.

Respectfully submitted,

Date: <u>December 13, 2006</u>

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Timothy N. Trop, Reg. No. 28,994
TROP, PRUNER & HU, P.C.
1616 S. Voss Road, Suite 750
Houston, TX 77057
713/468-8880 [Phone]
713/468-8883 [Fax]

Attorneys for Intel Corporation